

Appl. No. 10/533,001
Amdt. dated November 7, 2008
Reply to Office action of Aug. 11, 2008

Amendments to the Drawings:

The attached drawing sheet includes changes to Fig. 4. This sheet replaces the original corresponding sheet. Applicants attach an appropriate marked-up drawing sheet which shows their proposed corrections in red.

Attachment: Replacement Sheet
 Annotated Sheet Showing Changes

REMARKS

Request for Pre-examination Interview

The undersigned attorney for the Applicants, Peter A. Luccarelli Jr., telephone number 732 542-7800, respectfully requests a pre-examination interview to discuss references previously cited in the application, the claims presently pending in the application and other prior amendments to the specification. In view of both the amendments presented above and the following discussion, the Applicants submit that all claims now pending in the application will be allowable over the parent application cited art. It is also believed that an interview will assist the newly assigned Examiner to frame and perform any and all supplemental searches and examination.

Drawings

A proposed correction to Figure 4 is submitted herewith for Examiner review and approval. Figure 4 is corrected to include a reference numeral 881, in order to identify specifically the pivotal connection of the transmission member 87 rod 88 to the lip 6. A description of the pivotal connection is described in paragraph 32 of the substitute specification that was submitted in the parent application. In order to facilitate the correction and expedite prosecution the Applicants have also enclosed an appropriate substitute formal drawing sheet for Figure 4 that incorporates the proposed correction.

Specification Objections and Amendments

Paragraph 32 of the specification text was amended to conform to the new reference numeral 881 that is now in the proposed corrected version of Figure 4. The specific pivotal axes vertices forming the "parallelogram construction" are also identified in the text. It is submitted that no new matter has been added because all four pivotal axes 7, 71, 82 and 881 (formerly labeled 88) appeared in Figure 4 of the drawings as filed.

Status of Claims

After entry of this amendment, claims 17-20, 22-25, 28, 30-48 remain pending in the application. Claims 1-16, 21, 26, 27 and 29 have been cancelled in this or prior amendments. In this amendment, claims 17, 20, 22-25, 28 and 30 have been amended. Claims 18, 19 and 31 were not modified in this amendment. New claims 32-48 have been presented in this amendment.

The Examiner in the prior Office Action indicated that the subject matter of claims 26, 27 and 29 would be allowable if rewritten to overcome rejections under 35 USC § 112 and to include all the limitations to the base and all intervening claims. The subject matter of those claims is now presented in the new claims identified in the table below:

Prior Claim	Present Claims
26	33, 45
27	34, 46
29	35, 47

Rejections of Claims

A. Rejections under 35 USC § 112

In the prior Office Action, the Examiner rejected former claims 16 -31 under the provisions of the second paragraph of Section 112 due to recitation of "parallelogram construction" in the sole then pending independent claim 16. In the Examiner's view, claim 16 was indefinite because the load leveller apparatus could be operated in modes that would not necessarily have a parallelogram construction, for example as shown in Figure 4 middle and lower positions.

In response to the rejection, claim 16 has been cancelled. The new independent apparatus claim 32 and new method claim 43 do not recite parallelogram construction. The new independent apparatus claim 36 recites specific axes of first through fourth pivot connections "in at least one mode of operation, so that the four respective axes define vertices of a parallelogram". It is believed that claim 36 is not indefinite because it specifically recites "in at least one mode of operation".

B. Rejections Under 35 USC §103

In the prior Office Action the Examiner rejected the subject matter of all pending claims except claims 26, 27 and 29 under §103, under seven separate grounds involving sub groupings of cited references. For this reason, it is respectfully requested that a pre-examination telephone interview be conducted with the undersigned attorney, so that those grounds can be discussed prior to further examination of this application.

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Proper discussion and analysis will require detailed review of linkage structure shown in the reference drawings, as well as their written descriptions; and description of operation of their respective load levelers. Given numerous pivotal axes, latching mechanisms and modes of operation set forth in the references, a "live" telephone interview is believed to be a more efficient method of communication between the Examiner and the undersigned attorney.

Given the advance preparation time necessary for the proposed interview, it is requested that the Examiner telephone or e-mail (peter.luccarelli@mandw.com) the undersigned attorney with at least 24 hours advance notice of the Examiner's desired conference time and date.

In order to prepare for a telephone interview, it is noted that all seven grounds for rejection apply either the Artzberger U.S. Patent No. 3,997,932 ("Artzberger") or the Hahn et al. U.S. Patent Application Publication No. US 2002/0124491A1 ("Hahn") as the primary reference. It is noted that neither primary reference is capable of operation in a manner that orients the lip upper surface at a substantially fixed angle with respect to the platform throughout the deck upper surface pivotal range as recited in the presently submitted independent claims 32 (apparatus) or 43 (method). Similarly, neither the Artzberger nor Hahn references are capable of operation in a manner that defines four pivotal axes of rotation so that the four respective axes define vertices of a parallelogram as recited in independent apparatus claim 43.

The dock leveller apparatus described in the Artzberger and Hahn references have lip lifters whose respective purpose is

to position the lip in an extended position during some portion of the deck plate pivotal range. The apparatus described in those two references do not have linkages oriented in a parallelogram configuration as recited in presently submitted claim 36, nor are they capable of orienting a lip upper surface at a substantially fixed angle throughout the deck plate pivotal range.

The various secondary references alone or combined with either the Hahn or Artzberger primary references do not suggest, teach or disclose such features as recited in the presently submitted independent claims. The undersigned attorney for the Applicants proffers to discuss the contents of the cited references with the Examiner, noting the differences from the claimed subject matter of the presently submitted claims, with appropriate reference to the figures and text description of each reference.

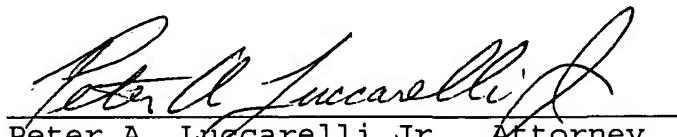
Appl. No. 10/533,001
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Conclusion

Thus, the Applicants submit that none of the claims presently in the application, is obvious under the provisions of 35 USC § 103. Furthermore, the Applicants also submit that all of these claims now fully satisfy the requirements of 35 USC § 112.

Consequently, the Applicants believe that all these claims are presently in condition for allowance. Accordingly, both reconsideration of this application and its swift passage to issue are earnestly solicited.

Respectfully submitted,

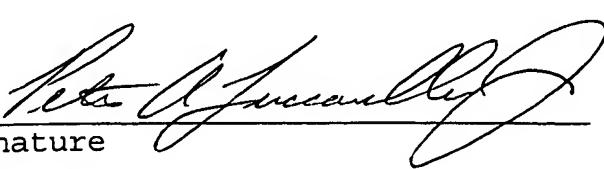

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November 7, 2008

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CERTIFICATE OF MAILING under 37 C.F.R. 1.8(a)

I hereby certify that this correspondence is being deposited on November 7, 2008 with the United States Postal Service as first class mail, with sufficient postage, in an envelope addressed to: Mail Stop RCE, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.


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